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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,102	07/28/2005	Hirobumi Toyoda	ARF-085US	9111
21254	7590	11/07/2007	EXAMINER	
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC			KIM, KEVIN Y	
8321 OLD COURTHOUSE ROAD			ART UNIT	PAPER NUMBER
SUITE 200			3714	
VIENNA, VA 22182-3817			MAIL DATE	DELIVERY MODE
			11/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/528,102	TOYODA, HIROBUMI
	Examiner Kevin Y. Kim	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 July 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-12 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 16 March 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 6/16/05, 7/28/05.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities: "feeding means for feeding lottery bails upward" should read, "...lottery balls upward." Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "open/close gate" and "gate control means." There is insufficient antecedent basis for the limitations in the claim.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
5. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A program is non-statutory, and must be placed on a computer-readable medium.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-3, 5, and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi et al (US 6,824,463 B1) in view of Morsch (US 2,668,716).

8. In re claim 1, Yamaguchi discloses a gaming machine comprising:
a cabinet having a face portion on which a lottery ball can roll and a plurality of lottery holes provided on the face portion (figure 1, 10);
game result determination means for determining a game result under a condition that the lottery ball enters any one of the plurality of lottery holes of the cabinet (column 5, lines 54-57);

a withdrawing passage being provided in the cabinet, the withdrawing passage being capable of allowing lottery balls having been discharged to pass through (figure 3, 2);

lottery ball throwing means for allowing the lottery balls having been discharged from the plurality of lottery holes through the withdrawing passage to be thrown onto the face portion of the cabinet (figure 3, 12, column 4, lines 42-45).

Yamaguchi is silent on tilt control means for tilting the cabinet, wherein the

cabinet is tilted by the tilt control means such that lottery balls having been located in the withdrawing passage are directed out to the lottery ball throwing means.

Morsch teaches a means for tilting a housing (i.e. a cabinet) back and forth about the axis of a shaft (column 1, line 56 to column 2, line 15). By combining the tilting of Morsch with Yamaguchi, the lottery ball delivered to the supply unit would be tilted and thrown onto the ramp, rapidly delivering the lottery ball to the rotating unit. It would have been obvious to one skilled in the art at the time the invention was made to combine the tilting means of Morsch with the cabinet of Yamaguchi in order to produce unusual and intriguing motions as to be attractive to the players or users, as well as providing another way to deliver the lottery ball to the rotating unit.

9. In re claim 2, Yamaguchi discloses:

feeding means for feeding lottery balls upward (figure 3, 2, column 4, lines 53-56);
throw-in means for throwing the lottery balls having been fed by the feeding means downward onto the face portion (figure 3, 12, column 4, lines 42-45).

Yamaguchi discloses returning balls from the withdrawing means to the feeding means (column 5, lines 42-45), but does not disclose the cabinet being tilted by the tilt control means. As discussed above regarding claim 1, Morsch teaches a tilting means. One skilled in the art would understand that there are a limited number of ways to move a ball from one location to another (e.g. gravity, tilting, conveyor belt, air pressure). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to use the tilting means of Morsch to return balls to the feeding means, as it

is obvious to try, additionally yielding the predictable result of moving a ball from one place to another.

10. In re claim 3, Yamaguchi discloses the feeding means is disposed outside the cabinet, the feeding means having a function to feed the lottery balls as being visible from the outside (column 7, lines 49-55).

11. In re claim 5, Yamaguchi discloses a gaming machine comprising:

- a cabinet having a face portion on which a lottery ball rolls, and a plurality of lottery holes being provided on the face portion (figure 1, 10);
- game result determination means for determining a game result under a condition that the lottery ball enters any one of the plurality of lottery holes of the cabinet (column 5, lines 54-57);
- lottery ball discharging means for discharging outside lottery balls having entered a plurality of respective lottery holes (column 6, lines 55-58);
- a withdrawing passage being fixed to the cabinet, the withdrawing passage allowing the lottery balls having been discharged by the lottery ball discharging means to pass through (figure 3, 2);
- lottery ball accumulating means for accumulating the lottery balls having been discharged by the lottery ball discharging means through the withdrawing passage, the lottery ball accumulating means communicating with the withdrawing passage (column 5, lines 42-45);
- an open/close gate being provided between the withdrawing passage and the lottery ball accumulating means such that the open/close gate is opened/closed (column

6, lines 55-58);

gate control means for controlling the open/close operation of the open/close gate (figure 5, 82);

lottery ball throwing means for throwing each of the lottery balls having been accumulated by the lottery ball accumulating means onto the face portion of the cabinet (figure 3, 12, column 4, lines 42-45).

Yamaguchi is silent on tilt control means for tilting the cabinet, wherein the cabinet is tilted by the tilt control means such that the open/close gate is positioned on a lower side of the withdrawing passage, and the open/close gate is opened by the gate control means so that lottery balls located in the withdrawing passage are directed out to the lottery ball throwing means.

Morsch teaches a means for tilting a housing (i.e. a cabinet) back and forth about the axis of a shaft (column 1, line 56 to column 2, line 15). By combining the tilting of Morsch with Yamaguchi, the lottery ball delivered to the supply unit would be tilted and thrown onto the ramp, rapidly delivering the lottery ball to the rotating unit. Additionally, Yamaguchi discloses that the supply unit may be positioned above the rotating unit (column 7, lines 50-55), thus placing the open/close gate below the withdrawing passage (figure 3, 2). It would have been obvious to one skilled in the art at the time the invention was made to combine the tilting means of Morsch with the cabinet of Yamaguchi in order to produce unusual and intriguing motions as to be attractive to the players or users, as well as providing another way to deliver the lottery ball to the rotating unit.

12. In re claim 8, Yamaguchi discloses a program for a gaming machine comprising:
 - a cabinet having a face portion on which a lottery ball can roll and a plurality of lottery holes provided on the face portion (figure 1, 10);
 - lottery balls discharging means for discharging lottery balls having entered the plurality of respective lottery holes (column 6, lines 55-58);
 - lottery ball accumulating means for accumulating the lottery balls having been discharged by the lottery ball discharging means through the withdrawing passage, the lottery ball accumulating means communicating with the withdrawing passage (column 5, lines 42-45);
 - lottery ball throwing means for throwing the lottery balls having been accumulated by the lottery ball accumulating means onto the face portion of the cabinet (figure 3, 12, column 4, lines 42-45).
 - an open/close gate being provided between the withdrawing passage and the lottery ball accumulating means such that the open/close gate is opened/closed (column 6, lines 55-58);
 - wherein the program executes:
 - a game result determination step of determining a game result on a basis of any one of the plurality of lottery holes receiving a lottery ball under a condition that the lottery ball enters any one of the plurality of lottery holes (column 5, lines 54-57);
 - a lottery ball discharging step of controlling the lottery ball discharging means to discharge the lottery balls having entered the plurality of respective lottery holes (column 6, lines 55-58);

a gate control step for controlling an open/close operation of the open/close gate (figure 5, 82).

Yamaguchi is silent on a tilt control step of controlling tilting the cabinet so that the open/close gate is positioned on a lower side of the withdrawing passage, and the open/close gate is opened by the gate control means so that lottery balls located in the withdrawing passage are directed out to the lottery ball throwing means.

Morsch teaches a means for tilting a housing (i.e. a cabinet) back and forth about the axis of a shaft (column 1, line 56 to column 2, line 15). By combining the tilting of Morsch with Yamaguchi, the lottery ball delivered to the supply unit would be tilted and thrown onto the ramp, rapidly delivering the lottery ball to the rotating unit. Additionally, Yamaguchi discloses that the supply unit may be positioned above the rotating unit (column 7, lines 50-55), thus placing the open/close gate below the withdrawing passage (figure 3, 2). It would have been obvious to one skilled in the art at the time the invention was made to combine the tilting means of Morsch with the cabinet of Yamaguchi in order to produce unusual and intriguing motions as to be attractive to the players or users, as well as providing another way to deliver the lottery ball to the rotating unit. Furthermore, one skilled in the art would understand that there are a limited number of ways to move a ball from one location to another (e.g. gravity, tilting, conveyor belt, air pressure). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to use the tilting means of Morsch to return balls to the feeding means, as it is obvious to try, additionally yielding the predictable result of moving a ball from one place to another.

13. In re claim 9, Yamaguchi discloses a gaming machine comprising:

a cabinet having a face portion on which a lottery ball can roll and a plurality of lottery holes provided on the face portion (figure 1, 10);
a controller for determining a game result under a condition that at least one of the lottery ball enters any one of the plurality of lottery holes of the cabinet (column 5, lines 54-57);

a withdrawing passage being provided in the cabinet, the withdrawing passage being capable of allowing lottery balls having been discharged to pass through (figure 3, 2);

a gate being provided to the cabinet, the gate allowing the lottery balls having been discharged from the plurality of lottery holes through the withdrawing passage to be thrown onto the face portion of the cabinet (column 6, lines 55-58).

However, Yamaguchi is silent on a swinging device for tilting the cabinet as the lottery balls roll over the face portion, wherein the cabinet is tilted such that lottery balls having been located in the withdrawing passage are directed out to the gate.

Morsch teaches a means for tilting a housing (i.e. a cabinet) back and forth about the axis of a shaft (column 1, line 56 to column 2, line 15). By combining the tilting of Morsch with Yamaguchi, the lottery ball delivered to the supply unit would be tilted from the top of the gate and thrown onto the ramp, rapidly delivering the lottery ball to the rotating unit. It would have been obvious to one skilled in the art at the time the invention was made to combine the tilting means of Morsch with the cabinet of Yamaguchi in order to produce unusual and intriguing motions as to be attractive to the

players or users, as well as providing another way to deliver the lottery ball to the rotating unit. Furthermore, one skilled in the art would understand that there are a limited number of ways to move a ball from one location to another (e.g. gravity, tilting, conveyor belt, air pressure). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to use the tilting means of Morsch to return balls to the feeding means, as it is obvious to try, additionally yielding the predictable result of moving a ball from one place to another.

14. In re claim 10, Yamaguchi discloses:

a slope for guiding the lottery balls from a lottery ball receiving portion to the face portion, the guided lottery balls rolling on the face portion until the guided lottery balls enter any of the plurality of lottery holes (figure 3, 123).

Yamaguchi does not disclose a screw conveyor for feeding the lottery balls upward, and that the cabinet is tilted by the swinging device such that the lottery balls located in the withdrawing passage are directed out to the screw conveyor.

The feeding method of Yamaguchi can be implemented in several ways, for example, an elevator or air pressure (column 4, lines 53-56). It would have been obvious to one skilled in the art at the time the invention was made to implement a screw conveyor in the feeder of Yamaguchi, as Yamaguchi already teaches a method of moving a ball upward, thus using a screw conveyor instead of air pressure or an elevator achieves the predictable result of moving a ball upward.

Furthermore, one skilled in the art would understand that there are a limited number of ways to move a ball from one location to another (e.g. gravity, tilting,

conveyor belt, air pressure). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to use the tilting means of Morsch to return balls to the feeding means, as it is obvious to try, additionally yielding the predictable result of moving a ball from one place to another.

15. In re claim 11, Yamaguchi discloses the ball feeder being located outside the cabinet to feed the lottery balls as being visible from the outside (column 7, lines 49-55). See the discussion of claim 10 regarding the screw conveyor.

16. Claims 4 ,6, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi in view of Morsch as applied to claim 1 above, and further in view of Tokito et al (US 5,634,639).

17. In re claim 4, Yamaguchi and Morsch have been discussed above, but are silent on detecting means for detecting a number of the lottery balls having been directed out from the withdrawing passage to the lottery ball throwing means, wherein the tilt control means that has a function to stop tilting the cabinet, under a condition that the detecting means detects that the number of the lottery balls having been directed out, as the cabinet is tilted, from the withdrawing passage to the lottery ball throwing means is a predetermined number.

Tokito teaches a method of determining the number of balls fed by a feeder by which the balls are delivered into the game (column 12, lines 54-58). Morsch has been discussed above regarding the tilt control means. It would have been obvious to one skilled in the art at the time the invention was made to combine the ball counting means

of Tokito and the tilting means of Morsch with the device of Yamaguchi in order to verify to the game and to players the correct amount of balls for the current game have been delivered. Additionally, one skilled in the art would understand that in order to stop the delivery of balls that are being delivered by the tilting means as discussed in claim 2, the device may simply stop being tilted.

18. In re claim 6, Yamaguchi and Morsch have been discussed above, but are silent on detecting means for detecting a number of the lottery balls passing through the open/close gate, wherein the gate control means that has a function to close the open/close gate if a number of the lottery balls having passed through the open/close gate reaches a predetermined number.

Tokito teaches a method of determining the number of balls fed by a feeder by which the balls are delivered into the game (column 12, lines 54-58). It would have been obvious to one skilled in the art at the time the invention was made to implement the counting method of Tokito with the open/close gate of Yamaguchi in order to verify to the game and players that the correct amount of balls for the current game have been delivered, ensuring that gameplay is not flawed.

19. In re claim 12, Yamaguchi and Morsch have been discussed above, but do not disclose a sensor for detecting a number of the lottery balls having been directed out from the withdrawing passage to the gate, wherein the swinging device has a function to stop tilting the cabinet, under a condition that the sensor detects that a predetermined number of lottery balls have been directed out, as the cabinet is tilted, from the withdrawing passage to the gate is a predetermined number.

Tokito teaches a method of determining the number of balls fed by a feeder by which the balls are delivered into the game (column 12, lines 54-58). Morsch has been discussed above regarding the tilt control (i.e. swing control) means. It would have been obvious to one skilled in the art at the time the invention was made to combine the ball counting means of Tokito and the tilting means of Morsch with the device of Yamaguchi in order to verify to the game and to players the correct amount of balls for the current game have been delivered. Additionally, one skilled in the art would understand that in order to stop the delivery of balls that are being delivered by the tilting means as discussed in claim 2, the device may simply stop being tilted.

20. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaguchi in view of Morsch and Tokito as applied to claim 4 above, and further in view of Isetani et al (US Des. 393,664).

21. In re claim 7, the invention has been disclosed by much of the above, but does not disclose the cabinet being designed in a ship-shape. Isetani teaches a game machine with the shape of a watercraft (a ship). It would have been obvious to one skilled in the art at the time the invention was made to design a gaming cabinet as a watercraft, as it is a matter of design choice which yields predictable results.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sher (US 5,755,440) discloses an enhanced roulette-style game.

Shoemaker (US 7,168,702 B1) discloses an amusement device of skill and lottery. Uehara et al (US 6,082,734) discloses a ball game machine. Hanna (US 4,887,816) discloses a lottery apparatus. Manabe (US 4,989,873) discloses a roulette playing device. Hilzendeger et al (US 5,370,391) discloses a spiral slide ball game. Ugawa (JP 08071240 A) discloses a lift inspecting device for installation island of pachinko game machine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Y. Kim whose telephone number is 571-270-3215. The examiner can normally be reached on Monday-Thursday, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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